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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/865,989	05/25/2001	Jean-Louis Dasseux	9196-019-999	6407

24341 7590 09/26/2003

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[REDACTED] EXAMINER

RUSSEL, JEFFREY E

[REDACTED] ART UNIT [REDACTED] PAPER NUMBER

1654

DATE MAILED: 09/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b>	Application No.	Applicant(s)
	09/865,989	DASSEUX ET AL.
	Examiner	Art Unit
	Jeffrey E. Russel	1654

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 September 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a)  The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b)  The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1.  A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2.  The proposed amendment(s) will not be entered because:
  - (a)  they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b)  they raise the issue of new matter (see Note below);
  - (c)  they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d)  they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3.  Applicant's reply has overcome the following rejection(s): See attachment.
4.  Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5.  The a) affidavit, b) exhibit, or c) request for reconsideration has been considered but does NOT place the application in condition for allowance because: See attachment.
6.  The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7.  For purposes of Appeal, the proposed amendment(s) a) will not be entered or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: None.

Claim(s) objected to: None.

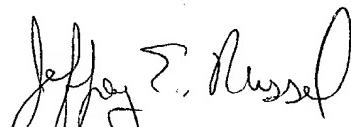
Claim(s) rejected: 76 and 78-103.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8.  The proposed drawing correction filed on \_\_\_\_\_ is a)  approved or b)  disapproved by the Examiner.
9.  Note the attached Information Disclosure Statement(s) ( PTO-1449) Paper No(s). \_\_\_\_\_.
10.  Other: \_\_\_\_\_

1. The proposed amendment after final rejection filed September 10, 2003, after entry, will overcome the rejections set forth in paragraphs 1, 7, and 8 of the Office action mailed July 11, 2003.
2. After entry of the proposed amendment after final rejection filed September 10, 2003, the objection set forth in paragraph 2 and the obviousness-type double patenting rejections set forth in paragraphs 4 and 5 of the final Office action will be maintained. With respect to the objection set forth in paragraph 2, it is not the claims that are redundant to one another, but rather two separate limitations in claim 76 which are redundant to one another. Given the limitation that at least one L-enantiomeric residue of formula (I) is replaced with the corresponding D-enantiomeric residue, the recitation of "D-pro" in the definition of  $X_1$  becomes redundant due to the recitation of L-Pro in the same definition of  $X_1$ . With respect to the rejections set forth in paragraphs 4 and 5 of the final Office action, the limitation that at least one L-enantiomeric residue of formula (I) is replaced with the corresponding D-enantiomeric residue is met by the claim limitations in the '377 and '323 patents that  $X_1$  can be D-Pro. This anticipates Applicants' claimed agonist compounds in which  $X_1$  is L-Pro which has been replaced with D-Pro.
3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey E. Russel at telephone number (703) 308-3975. The examiner can normally be reached on Monday-Thursday from 8:30 A.M. to 6:00 P.M. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Brenda Brumback can be reached at (703) 306-3220. The fax number for Technology Center 1600 for formal communications is (703) 872-9306; for informal communications such as proposed amendments, the fax number (703) 746-5175 can be used. The telephone number for the Technology Center 1600 receptionist is (703) 308-0196.



Jeffrey E. Russel

Primary Patent Examiner

Art Unit 1654

JRussel

September 22, 2003